

**ORIGINAL**

**STENOGRAPHIC TRANSCRIPT OF PROCEEDINGS**

**BEFORE THE**

**Illinois Commerce Commission**

**DOCKET NO.**

98-0033  
98-0214 thru  
98-0221  
99-0349  
00-0367✓  
00-0368

**IN THE MATTER OF:**

AEP INDUSTRIES INC  
ANTIOCH COMMUNITY HIGH SCHOOL DISTRICT 117  
SAINT THERESA MEDICAL CENTER  
MSC PRE FINISH METALS INC.  
ADIAI E. STEVENSON HIGH SCHOOL DISTRICT  
DAYTON HUDSON CORPORATION -O&K AMERICAN CORP  
ADVANCE DIAL COMPANY  
BLOOM TOWNSHIP DISTRICT 206 HIGH SCHOOLS  
DAYTON HUDSON CORPORATION  
✓AEP INDUSTRIES INC - O&K AMERICAN CORP  
VS. COMMONWEALTH EDISON COMPANY

**PLACE:** Chicago, Illinois

**DATE:** August 23, 2000

**PAGES:** 193-204

**SULLIVAN REPORTING COMPANY**

OFFICIAL REPORTERS

TWO NORTH LA SALLE STREET

SUITE 1780

CHICAGO, ILLINOIS 60602

312-782-4705

SPRINGFIELD, ILLINOIS

217-528-6964

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )

AEP INDUSTRIES, INC., )

v. )

COMMONWEALTH EDISON COMPANY, )

No. 98-0033

Complaint as to the alleged )  
violation of Respondent's )  
tariffs by improperly assessing )  
penalties, taxes and other )  
charges. )  
----- )

ANTIOCH COMMUNITY HIGH SCHOOL, )

DISTRICT 117, )

v. )

COMMONWEALTH EDISON COMPANY, )

No. 98-0214

Complaint as to Commonwealth )  
Edison Company's Rider 30, )  
Option C, )  
interruptible/curtailable )  
service tariff. )  
----- )

SAINT THERESA MEDICAL CENTER, )

v. )

COMMONWEALTH EDISON COMPANY, )

No. 98-0215

Complaint as to Commonwealth )  
Edison Company's Rider 30, )  
Option C, )  
interruptible/curtailable )  
service tariff. )  
----- )

MSC PREFINISH METALS, INC., )

v. )

COMMONWEALTH EDISON COMPANY, )

No. 98-0216

Complaint as to Commonwealth )  
Edison Company's Rider 30, )  
Option C, )  
interruptible/curtailable )

1	service tariff.	)	
	-----	)	
2	ADLAI E. STEVENSON HIGH SCHOOL	)	
	DISTRICT,	)	
3	v.	)	No. 98-0217
	COMMONWEALTH EDISON COMPANY,	)	
4		)	
	Complaint as to Commonwealth	)	
5	Edison Company's Rider 30,	)	
	Option C,	)	
6	interruptible/curtailable	)	
	service tariff.	)	
7	-----	)	
	DAYTON HUDSON CORPORATION,	)	
8	v.	)	No. 98-0218
	COMMONWEALTH EDISON COMPANY,	)	
9		)	
	Complaint as to Commonwealth	)	
10	Edison Company's Rider 30,	)	
	Option C,	)	
11	interruptible/curtailable	)	
	service tariff.	)	
12	-----	)	
	O&K AMERICAN CORP,	)	
13	v.	)	No. 98-0219
	COMMONWEALTH EDISON COMPANY,	)	
14		)	
	Complaint as to Commonwealth	)	
15	Edison Company's Rider 30,	)	
	Option C,	)	
16	interruptible/curtailable	)	
	service tariff.	)	
17	-----	)	
	ADVANCE DIAL COMPANY,	)	
18	v.	)	No. 98-0220
	COMMONWEALTH EDISON COMPANY,	)	
19		)	
	Complaint as to Commonwealth	)	
20	Edison Company's Rider 30,	)	
	Option C,	)	
21	interruptible/curtailable	)	
	service tariff.	)	
22	-----	)	
	BLOOM TOWNSHIP DISTRICT 206	)	

1	HIGH SCHOOLS,	)	
	v.	)	No. 98-0221
2	COMMONWEALTH EDISON COMPANY,	)	
		)	
3	Complaint as to Commonwealth	)	
	Edison Company's Rider 30,	)	
4	Option C,	)	
	interruptible/curtailable	)	
5	service tariff.	)	
	-----	)	
6	DAYTON HUDSON CORPORATION,	)	
	v.	)	No. 99-0349
7	COMMONWEALTH EDISON COMPANY,	)	
		)	
8	Complaint as to alleged	)	
	violations of Rider 30 in	)	
9	Chicago, Illinois.	)	
	-----	)	
10	AEP INDUSTRIES, INC.,	)	
	v.	)	No. 00-0367
11	COMMONWEALTH EDISON COMPANY,	)	
		)	
12	Complaint as to improperly	)	
	assessed penalties and denied	)	
13	billing credits in Chicago,	)	
	Illinois.	)	
14	-----	)	
	O&K AMERICAN CORP.,	)	
15	v.	)	No. 00-0368
	COMMONWEALTH EDISON COMPANY,	)	
16		)	
	Complaint as to improperly	)	
17	assessed penalties and denied	)	
	billing credits in Chicago,	)	
18	Illinois.	)	

Chicago, Illinois  
August 23rd, 2000

Met pursuant to notice at 10:00 a.m.

1 BEFORE:

2 ERIN O'CONNELL-DIAZ, and DEBORAH KING,  
3 Administrative Law Judges.  
4

5 APPEARANCES:

6 GIORDANO & ASSOCIATES, LTD., by  
7 MR. PATRICK N. GIORDANO,  
8 55 East Monroe Street, Suite 3040  
Chicago, Illinois 60603  
for Complainants;

9 HOPKINS & SUTTER, by  
10 MR. WILLIAM J. MC KENNA, and  
11 MR. ROSS E. KIMBAROVSKY,  
Three First National Plaza, Suite 4100  
Chicago, Illinois 60602  
for Respondent.  
12  
13  
14  
15  
16  
17  
18  
19  
20

21 SULLIVAN REPORTING COMPANY, by  
22 Steven T. Stefanik, CSR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

I N D E X

Re- Re- By

Witnesses:      Direct Cross direct cross Examiner

None.

E X H I B I T S

Number

For Identification

In Evidence

None so marked.

1 JUDGE O'CONNELL-DIAZ: Pursuant to the direction  
2 of the Illinois Commerce Commission, we now call --  
3 we now call Dockets 98-0214 through 0221, 99-0349,  
4 00-0367 and 00-368.

5 May we have the appearances for the  
6 record, please.

7 MR. GIORDANO: Patrick Giordano, Giordano and  
8 Associates, Ltd., 55 East Monroe Street, Suite 3040,  
9 Chicago, Illinois 60603, for complainants.

10 MR. MC KENNA: William McKenna and Ross  
11 Kimbarovsky, Hopkins and Sutter, Suite 4100, Three  
12 First National Plaza, Chicago, Illinois on behalf of  
13 the respondent, Commonwealth Edison.

14 JUDGE O'CONNELL-DIAZ: Are those all the  
15 appearances?

16 Those being all the appearances, let the  
17 record reflect that this is a status hearing with  
18 regard to the '98 Rider 30 cases. And I think the  
19 purpose of this status was to kind of bring us up to  
20 date as to where we are with the -- I think there  
21 was outstanding discovery and possibly that the  
22 parties might have in their minds a projected

1 hearing date or testimonial schedule that we  
2 could --

3 MR. GIORDANO: Well, I think -- yeah, you had  
4 already --

5 JUDGE O'CONNELL-DIAZ: We set a schedule.

6 MR. GIORDANO: And then it ended up in hearings  
7 in December.

8 JUDGE O'CONNELL-DIAZ: Okay.

9 MR. GIORDANO: Our original direct testimony was  
10 due September the 8th.

11 Unfortunately, due to the pressing  
12 business of this case and also the other matters  
13 that we have, we have not been able to complete  
14 discovery. And I apologize because we didn't  
15 coordinate the schedules that well.

16 Our brief in this matter is due the same  
17 day that our testimony is due in the other matter,  
18 and that's -- we're not going to be able to comply  
19 with that.

20 So we're asking for just a -- to take the  
21 schedule back 35 days, move the whole schedule back  
22 35 days so that our initial testimony would be due



1 on October the 13th.

2 MR. MC KENNA: I told Mr. Giordano, who called  
3 me about this yesterday, that I would not object and  
4 so I'm not going to.

5 However, I did want to point out that the  
6 one thing ComEd wants to preserve here is we'd like  
7 to have the hearing in the '97, '98 cases during the  
8 winter, because of the involvement of bulk power.

9 We had originally set the hearing for  
10 December, and Mr. Giordano's now asking to push  
11 everything back one month. I don't object to that  
12 if we can get it done in January, just so we don't  
13 get into the next season.

14 JUDGE O'CONNELL-DIAZ: What hearing dates are  
15 you projecting based on this revised schedule?

16 MR. GIORDANO: Well, it would be sometime in mid  
17 January, whenever you're available.

18 JUDGE O'CONNELL-DIAZ: Pick a date now.

19 So the filing date for the testimony that  
20 you're requesting in your motion is to have the  
21 filing date for --

22 MR. GIORDANO: We had -- we had set --

1 JUDGE O'CONNELL-DIAZ: I don't have that  
2 schedule in front of me, so...

3 MR. MC KENNA: It was September 8th for the  
4 complainant's testimony and October the 8th for the  
5 respondent's testimony.

6 MR. GIORDANO: Right. We were asking for  
7 October 13th.

8 JUDGE O'CONNELL-DIAZ: And their filing date  
9 would stay the same or --

10 MR. MC KENNA: Well, no, ours would then have to  
11 move a month, because if he files October 13th, we'd  
12 need November 13th.

13 MR. GIORDANO: Right. I don't have it in front  
14 of me, but what I was proposing is just to move all  
15 the dates back 35 days.

16 JUDGE O'CONNELL-DIAZ: How many days do you  
17 envision for hearings on the '98 cases?

18 MR. GIORDANO: We scheduled three days that may  
19 be necessary because there are that many  
20 complainants.

21 JUDGE O'CONNELL-DIAZ: Okay. How about January  
22 23rd, 24th and 25th?

1 MR. MC KENNA: That works for me.

2 MR. GIORDANO: Okay. And then can we just --  
3 can Mr. McKenna and I agree on a schedule to get to  
4 that point, I mean, the precise schedule?

5 I mean, I'm proposing moving back  
6 everything 35 days, but let's just -- you want to  
7 agree on whether -- a precise schedule?

8 MR. MC KENNA: So long as we understand that  
9 you'll file your testimony in October and we will  
10 file our response in November, and then you wanted,  
11 I think, a rebuttal?

12 MR. GIORDANO: Right. Right.

13 JUDGE O'CONNELL-DIAZ: I think the dates now are  
14 then October 13th for --

15 MR. GIORDANO: That's fine.

16 JUDGE O'CONNELL-DIAZ: -- and November 13th.

17 MR. MC KENNA: And then if he wants rebuttal,  
18 December 13th.

19 JUDGE O'CONNELL-DIAZ: Okay.

20 MR. GIORDANO: Okay. That's fine.

21 Okay. Thank you.

22 And that was the 20 --

1 JUDGE O'CONNELL-DIAZ: Third through the 25th.

2 Do we need a status before the hearing?

3 MR. MC KENNA: I hope not, but -- did you want a  
4 status before the hearing?

5 JUDGE O'CONNELL-DIAZ: I mean, I would leave it  
6 up to the parties to -- I think we would like them  
7 to work out the schedule of witnesses just as you've  
8 done in this docket.

9 MR. GIORDANO: And just let you know if we need  
10 a status?

11 JUDGE O'CONNELL-DIAZ: Fine.

12 Then this matter will be continued to  
13 January 23rd, 2001 at 10:00 o'clock for hearing.

14 I would caution that, you know, we would  
15 like to get this case concluded; and I think,  
16 counsel, that was one of your arguments early on.  
17 And so it is your motion that is moving the schedule  
18 forward. So...

19 MR. GIORDANO: No, I understand that. And we  
20 will -- we will -- we will do so.

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

JUDGE O'CONNELL-DIAZ: Okay.

(Whereupon, said hearing was  
continued to January 23rd,  
2001 at 10:00 a.m.)

CERTIFICATE OF REPORTER

STATE OF ILLINOIS )

COUNTY OF DU PAGE )

CASE NO. 98-0214, et al.

TITLE: AEP INDUSTRIES v. COMMONWEALTH EDISON

I, Steven Stefanik do hereby certify that I am a

court reporter contracted by SULLIVAN REPORTING

COMPANY, of Chicago, Illinois; that I reported in

shorthand the evidence taken and the proceedings had

in the hearing on the above-entitled case on the

23rd day of August A.D. 2000; that the foregoing 12

pages are a true and correct transcript of my

shorthand notes so taken as aforesaid, and contains

all the proceedings directed by the Commission or

other person authorized by it to conduct the said

hearing to be stenographically reported.

Dated at Chicago, Illinois, this 28th day

of August A.D. 2000.

  
REPORTER